

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANGIE CRUZ, I.H., AR'ES KPAKA and  
RIYA CHRISTIE, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

-against-

HOWARD ZUCKER, as Commissioner of the  
New York State Department of Health,

Defendant.

14-CV-4456 (JSR) (GWG)

**DECLARATION OF  
JOHN GASIOR**

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JOHN GASIOR, an attorney admitted to practice in the State of New York and before  
this Court, declares under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following  
is true:

1. I am an Assistant Attorney General in the Office of Eric T. Schneiderman,  
Attorney General of the State of New York, attorney for Defendant Howard Zucker,  
Commissioner of the New York State Department of Health ("DOH" or "Defendant"). I submit  
this declaration in support of Defendant's motions for summary judgment and to decertify the  
Plaintiff Class.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the complete set of  
medical records produced in this litigation by Plaintiff Angie Cruz.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the complete set of  
medical records produced in this litigation by Plaintiff Ar'es Kpaka.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the complete set of  
medical records produced in this litigation by Plaintiff Riya Christie.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the transcript of the 30(b)(6) deposition taken on August 12, 2015, of Constance Donohue, as the representative of DOH.

6. Attached hereto as **Exhibit 5** is a true and correct copy of an email from Katherine Truby to various employees of DOH, dated December 26, 2014, with the subject “Cosmetic Procedures and Gender Reassignment.”

7. Attached hereto as **Exhibit 6** is a true and correct copy of Volume 31, Number 6 of the New York State Department of Health’s *Medicaid Update* that was issued by DOH on June 29, 2015.

8. Attached hereto as **Exhibit 7** is a true and correct copy of the transcript of the deposition taken on August 7, 2015, of Plaintiffs’ expert witness Ryan Nicholas Gorton, M.D.

9. Attached hereto as **Exhibit 8** is a true and correct copy of a policy document from the Bureau of Medical, Dental and Pharmacy Policy within DOH’s Division of Program Development and Management.

10. Attached hereto as **Exhibit 9** is a true and correct copy of the Rule Making Activities published in the New York State Register on March 11, 2015, which includes at pages 19 to 20 the Notice of Adoption of 18 N.Y.C.R.R. 505.2(l) (2015).

11. Attached hereto as **Exhibit 10** is a true and correct copy of the transcript of the 30(b)(6) deposition taken on June 12, 2015, of Constance Donohue, as the representative of DOH.

12. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts of the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (“DSM-5”), published by the American Psychiatric Association in 2013, which relate to the diagnosis of gender dysphoria.

13. Attached hereto as **Exhibit 12** is a true and correct copy of the transcript of the deposition taken on August 10, 2015, of Plaintiffs' expert witness Johanna Olson, M.D.

14. Attached hereto as **Exhibit 13** is a true and correct copy of the transcript of the deposition taken on August 11, 2015, of Plaintiffs' expert witness Jack Drescher, M.D.

15. Attached hereto as **Exhibit 14** is a true and correct copy of version 7 of the *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* published by the World Professional Association for Transgender Health ("WPATH") in 2012.

16. Attached hereto as **Exhibit 15** is a true and correct copy of *Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline*, published by the Endocrine Society in 2009.

17. Attached hereto as **Exhibit 16** is a true and correct copy of excerpts of *Treating Transgender Children and Adolescents: An Interdisciplinary Discussion*, edited by Dr. Jack Drescher and Dr. William Byne, published by Routledge in 2013.

18. Attached hereto as **Exhibit 17** is a true and correct copy of an email dated April 10, 2015, from Constance Donohue, an employee within DOH's Bureau of Medical, Dental and Pharmacy Policy, to Nicole M. McKnight, an employee of the United States Centers for Medicare and Medicaid Services ("CMS").

19. Attached hereto as **Exhibit 18** is a true and correct copy of the transcript of the 30(b)(6) deposition taken on June 11, 2015, of Katherine Truby, as the representative of DOH.

20. Attached hereto as **Exhibit 19** is a true and correct copy of excerpts from the *State Medicaid Manual*, published by CMS and available online at

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021927.html>.

21. Attached hereto as **Exhibit 20** is a true and correct copy of *EPSDT – A Guide for States: Coverage in the Medicaid Benefit for Children and Adolescents*, published by CMS in June 2014.

22. Attached hereto as **Exhibit 21** is a true and correct copy of the report titled *Hormone Therapy for the Treatment of Gender Dysphoria*, published on May 19, 2014 by Hayes, Inc.

23. Attached hereto as **Exhibit 22** is a true and correct copy of the report titled *Treatment for Gender Dysphoria: Guidelines and Payer Policies Summary*, published in October 2014 by Oregon Health and Science University.

24. Attached hereto as **Exhibit 23** is a true and correct copy of Plaintiffs' Responses And Objections To Defendant's Request For Admissions dated June 12, 2015.

25. Attached hereto as **Exhibit 24** is a true and correct copy of the transcript of the 30(b)(1) deposition taken on August 13, 2015, of Constance Donohue.

Dated: New York, New York  
August 28, 2015



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JOHN GASIOR